

July 1, 2004

ENERGY & ENVIRONMENT
COMMITTEE
REPORT NO. 10

ALL MEMBERS PRESENT, EXCEPT LEGISLATOR RANZENHOFER.

1. RESOLVED, that the following items are hereby received and filed.
 - a. Item Page -2004 (Comm. 15D-4)
DEP: Close out Report – Household Hazardous Waste Collection – 5/08/04.
(4-0) Legislator Ranzenhofer absent.
 - b. Item Page -2004 (Comm. 15E-14)
COUNTY EXECUTIVE: EC Southtowns Sewage Treatment Agency – Engineering Service Agreement, 6/1/02 – Change Order No. 4.
(4-0) Legislator Ranzenhofer absent.
 - c. Item Page -2004 (Comm. 15E-23)
COUNTY EXECUTIVE: ECS D No. 3 – Engineer Term Agreement.
(4-0) Legislator Ranzenhofer absent.
 - d. Item Page -2004 (Comm. 15E-26)
COUNTY EXECUTIVE: ECS D No. 6 – Bethlehem Park Rehabilitation Phase I – Change Order No. 2 – C. Destro Development Company.
(4-0) Legislator Ranzenhofer absent.

2 a. Item Page -2003 **AS AMENDED**
(Comm. 20E-41)
COUNTY EXECUTIVE
RESOLUTION NO. _____-2004

A RESOLUTION APPROVING AN INCREASE AND IMPROVEMENT OF THE FACILITIES OF THE ERIE COUNTY SEWER DISTRICT NO. 1 IN THE COUNTY OF ERIE, NEW YORK.

(Introduced) _____, 2004.

(Adopted) _____, 2004.

WHEREAS, pursuant to proceedings heretofore had and taken in accordance with the provisions of Article 5-A of the County Law, including approving orders of the State Comptroller, County Sewer District No. 1 of the County of Erie, New York, has heretofore been established and created on March 6, 1960 (the "District") to provide sewer services to the southern part of the Town of Cheektowaga and the northern part of the Town of West Seneca; and

WHEREAS, the Board of Managers of Erie County Sewer District No. 1 has duly directed that there be prepared a report and estimate of cost by the County Engineers (Erie County Department of Environment and Planning) relating to a proposed increase and improvement of the

facilities of the District which report and estimate of cost have been approved by the Board of Managers of Erie County Sewer District No. 1 on April 23, 2004 and filed with the County Legislature pursuant to Section 268 of the County Law; and

WHEREAS, said report and estimate of cost describe a proposed increase and improvement of the facilities of the District, consisting of the reconstruction and/or replacement of approximately 37,488 linear feet of sewer, as more fully described in the report and estimate of cost hereinbefore referred to; and

WHEREAS, the maximum estimated cost of the aforesaid increase and improvement of the facilities of the District is \$4,000,000, to be apportioned among real properties in the District in accordance with (i) their respective proportionate shares of sewer units in the District, (ii) applicable flat charges, and (iii) assessments against a benefited area which consists of the entire area of said Sewer District No.1; and

WHEREAS, pursuant to Section 258 of the County Law, as amended by Chapter 397 of the Laws of 1995, the consent of the State Comptroller is not required prior to the construction of said increase and improvement of facilities of the District because the cost thereof to the Typical Property (as defined in the County Law) does not exceed the Average Estimated Cost to the Typical Properties for similar types of expenditures, as computed by the State Comptroller and such cost is \$6.50 for the Town of Cheektowaga, \$7.50 for the Town of West Seneca, \$10.08 for the Town of Elma, and \$7.00 for the Village of Depew; and

WHEREAS, said County Legislature duly adopted Resolution No. 198 on May 13, 2004, calling a meeting of the County Legislature for the purpose of holding a public hearing on said increase and improvement of facilities in accordance with said report and estimate of cost; and

WHEREAS, such Resolution authorized and directed the Clerk of said County Legislature to publish the notice of public hearing and file a certified copy of such notice with the office of the State Comptroller; and

WHEREAS, said public hearing was duly held at 92 Franklin Street, 2nd Floor, Part 6, in Buffalo, New York, in said County, on June 24, 2004, at 1:30 o'clock P.M., Prevailing Time; and

WHEREAS, notice of said public hearing was duly published and filed in the manner provided by law and proof thereof was submitted to said County Legislature; and

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY LEGISLATURE OF THE COUNTY OF ERIE, NEW YORK, AS FOLLOWS:

Section 1. Upon the evidence given at the aforesaid public hearing, it is hereby found and determined that it is in the public interest to proceed with the expenditure for the increase and improvement of the facilities of Erie County Sewer District No. 1, all as more fully described in the preambles hereof, and such increase and improvement of facilities is hereby authorized at a maximum estimated cost of \$4,000,000.

cost approved by the Board of Managers of said District on April 23, 2004, and filed with the County Legislature pursuant to Section 268 of the County Law. The estimated maximum cost of said specific object or purpose, including preliminary costs and costs incidental thereto and to the financing thereof, is \$4,000,000. The plan of financing includes the issuance of \$4,000,000 bonds herein authorized and any bond anticipation notes issued in anticipation of the sale of such bonds, and the levy of a tax to pay the principal of and interest on said bonds and notes, the said principal and interest to be reimbursed to the County by the assessment and levy on the real property in Erie County Sewer District No.1.

Section 2. The period of probable usefulness for the specific objects or purposes for which said \$4,000,000 bonds herein authorized to be issued, within the limitations of Section 11.00 a. 4. of the Law, is forty (40) years.

Section 3. Current funds are not required to be provided as a down payment prior to the issuance of the \$4,000,000 bonds authorized herein, or any bond anticipation notes issued in anticipation thereof, pursuant to Section 107.00 d. 3. of said Law.

Section 4. The County intends to finance, and the Comptroller of the County is hereby authorized to advance such amounts as are necessary to pay the costs of the object or purpose described in Section 1 hereof prior to the issuance of the bonds or bond anticipation notes authorized out of any available funds of the County, on an interim basis, which amounts are reasonably expected to be reimbursed with the proceeds of debt to be incurred by the County, pursuant to this Resolution, in the maximum amount of bonds herein authorized. This Resolution is a declaration of official intent adopted pursuant to the requirements of Treasury Regulation Section 1.150-2.

Section 5. Subject to the provisions of this Resolution and of the Law, and pursuant to the provisions of §21.00 relative to providing for substantially level or declining annual debt service, §30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals thereof, and of §§50.00, 56.00 to 60.00 and 168.00 of said Law, the powers and duties of the County Legislature relative to authorizing the issuance of any notes in anticipation of the sale of the respective amounts of bonds herein authorized, or the renewals thereof, relative to prescribing the terms, form and contents and as to the sale and issuance of the respective amounts of bonds herein authorized, and of any notes issued in anticipation of the sale of said bonds or the renewals of said notes, and relative to executing agreements for credit enhancement, are hereby delegated to the Comptroller of the County, as the chief fiscal officer of the County.

Section 6. Each of the bonds authorized by this Resolution and any bond anticipation notes issued in anticipation of the sale thereof shall contain the recital of validity prescribed by Section 52.00 of said Local Finance Law and said bonds and any notes issued in anticipation of said bonds shall be general obligations of the County of Erie, payable as to both principal and interest by general tax upon all the taxable real property within the County without limitation as to rate or amount. The faith and credit of the County are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds or the renewals of said notes, and provision shall be made annually in the budgets of the County by appropriation for (a) the amortization and redemption of the notes and bonds to mature in such year and (b) the payment of interest to be due and payable in such year.

WHEREAS, the aforementioned lowest responsible bidders have been recognized as successfully performing similar work in Erie County.

NOW, THEREFORE, BE IT

RESOLVED, that the Disinfection Improvements, Contract Nos. 66STP-A General, 66STP-B Heating and Ventilation, 66STP-C Plumbing, and 66STP-D Electrical, at the Big Sister Creek Wastewater Treatment Plant be awarded to the lowest responsible bidders as follows:

<u>Contract</u>	<u>Low Bidder</u>	<u>Amount Bid</u>
Contract 66STP-A General	STC Construction, Inc. 63 Zoar Valley Road P.O. Box 429 Springville, NY 14141	\$1,217,100.00
Contract 66STP-B HVAC	John W. Danforth Co. 2100 Colvin Boulevard Tonawanda, NY 14150	44,000.00
Contract 66STP-C	W.C. Roberson Plumbing & Plumbing Construction Co. 602 E. Delavan Avenue Buffalo, NY 14211	14,700.00
Contract 66STP-D Electrical	O'Connell Electric Co. 830 Phillips Road Victor, NY 14564	140,000.00

and be it further

RESOLVED, that the County Executive be, and hereby is, authorized to execute the Contracts with the aforementioned lowest responsible bidders subject to approval as to from by the County Attorney and certification of availability of funds from the Project Fund Balance or an authorized advance from the General Fund by the Comptroller's Office; and be it further RESOLVED, that the Comptroller is authorized and directed to allocate \$1,415,800.00 from Sewer Capital, Erie County Sewer District No. 2, Account C.00013 (430-444), for Contract 66STP -A, Contract 66STP -B, Contract 66STP -C, and Contract 66STP -D; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send one certified copy of this Resolution to County Executive Joel Giambra; one certified copy to John S. Rizzo, Deputy Comptroller; one certified copy to the Erie County Comptroller's Office; one certified copy to Gregory Dudek, Assistant County Attorney and two (2) certified copies to Charles J. Alessi, P.E., Department of Environment and Planning.
(4-0) Legislator Ranzenhofer absent.

4. Item Page -2004 **AS AMENDED**
COUNTY EXECUTIVE
 (Comm. 13E-16)

WHEREAS, the City of Lackawanna and Erie County Sewer District No. 6 have identified and mutually agreed that the subbase and Trueing and Leveling, within the project area but outside the fiscal limits of the Erie County Sewer District No. 6 project, needs to be rehabilitated and

WHEREAS, both the City and the Sewer District desire to consolidate this subbase work along Spruce Street and Jackson Avenue to alleviate inconvenience to the public and reduce costs to the taxpayer, and

WHEREAS, the County's contractor, C. Destro Development Co., Inc., is working in the project area and the City of Lackawanna has agreed to reimburse the County the costs for said improvements at a cost not to exceed \$19,646.

NOW, THEREFORE, BE IT

RESOLVED, that an intermunicipal agreement be approved between the County, on behalf of Erie County Sewer District No. 6, and the City of Lackawanna for the purpose of rehabilitating subbase and Trueing and Leveling the section of Spruce Street and Jackson Avenue in Bethlehem Park which will suit the needs of both municipalities, and be it further

RESOLVED, that the County Executive be, and hereby is, authorized to execute the agreement subject to approval as to form by the County Attorney, and content by the Commissioner of the Department of Environment and Planning; and be it further

RESOLVED, that \$19,646.00 be allocated from account 516020 (Professional Service Contracts) in Erie County Sewer District No. 6 Operating fund and Sewer District No.6 will be reimbursed from the City of Lackawanna at a sum not to exceed \$19,646.00, and be it further

RESOLVED, the Director of Budget, Management and Finance is hereby authorized to "increase the Erie County Sewer District No. 6 Operating Budget to fund this agreement as follows;

516020	Professional Service Contracts	\$19,646.00
466000	Miscellaneous Receipts	19,646.00

and be it further,

RESOLVED, that the Clerk of the Legislature be directed to send one certified copy of this Resolution to County Executive Joel Giambra; one certified copy to John S. Rizzo, Deputy Comptroller; one certified copy to the Erie County Comptroller's Office; one certified copy to Gregory Dudek, Assistant County Attorney and two (2) certified copies to Charles J. Alessi, P.E., Department of Environment and Planning.
 (4-0) Legislator Ranzenhofer absent.

5. Item Page -2004 (Comm. 15E-12)
COUNTY EXECUTIVE

WHEREAS, Niagara Mohawk Power Corporation has requested use of a fifteen feet by fifteen feet area of vacant County land, SBL 141.20-1-3.12, for the installation of bollards and a guy wire which will support a power pole located adjacent to the County property and

WHEREAS, a revocable permit is recommended for Niagara Mohawk Power Corporation to use the vacant property; and

WHEREAS, this revocable permit will have no negative effect on the ability of Erie County Sewer District No. 6 to operate and maintain sewer related operations; and

WHEREAS, the granting of this revocable permit will bear no cost to the County and

WHEREAS, Erie County Sewer District No. 6 and the Advisory Review Committee have reviewed this matter and recommend the granting of this revocable permit.

NOW, THEREFORE, BE IT

RESOLVED, that a revocable permit for use of a fifteen feet by fifteen feet area on parcel SBL no. 141.20-1.3.12 be granted to Niagara Mohawk; and be it further

RESOLVED, that the County Executive be authorized to sign said revocable permit subject to approval by the County Attorney; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send certified copies of this resolution to Joel A. Giambra, County Executive; Charles J. Alessi, P.E., Deputy Commissioner; Department of Environment and Planning, Gregory J. Dudek, Assistant County Attorney; and Nancy Naples, Erie County Comptroller's Office.
 (4-0) Legislator Ranzenhofer absent.

6. Item Page -2004 (Comm. 15E-16)
COUNTY EXECUTIVE

WHEREAS, the Buffalo & Erie County Botanical Gardens Society is a not-for-profit organization, and

WHEREAS, the Buffalo & Erie County Botanical Gardens Society has done temporary planting in the Main Dome, and

WHEREAS, the Buffalo & Erie County Botanical Gardens has purchased temporary plantings without any mark-up, and

WHEREAS, the cost of the planting materials and miscellaneous expenses will not exceed \$20,000.

NOW, THEREFORE, BE IT,

RESOLVED, that the Buffalo & Erie County Botanical Gardens has purchased temporary plantings, at cost with no mark-up, and be it further,

RESOLVED, that the cost of the plant materials will not exceed \$20,000, and be it further,

RESOLVED, that the amount of \$20,000 be allocated to reimburse the Buffalo & Erie County Botanical Gardens Society, for the cost of the temporary planting materials, and be it further,

RESOLVED, that the funding for the reimbursement is from 2003 Parks Master Plan, Project A.09020, and be it further,

RESOLVED, that two certified copies of this resolution be sent to the Department of Public Works, Office of the Commissioner; one copy to Budget Management & Finance; one copy to the Comptroller's Office; one copy to the Office of the County Executive; and one copy to the Erie County Botanical Gardens Society.

(4-0) Legislator Ranzenhofer absent.

7. Item Page -2004 (Comm. 15E-24)

COUNTY EXECUTIVE

WHEREAS, the Erie County Legislature had awarded Contract No. 34EV to Sicar, Inc. for the Erie County Sewer District No. 2 Bluffs Subtrunk Project; and

WHEREAS, the Erie County Division of Sewerage Management has advised the Legislature that all scheduled improvements are now completed; and

WHEREAS, the Erie County Department of Environment and Planning has recommended the acceptance of Contract No.34EV in the final contract amount of \$405,360.44 which includes Change Order No. 2 (final), an increase of \$6,989.35, and approval for final payment.

NOW, THEREFORE, BE IT

RESOLVED, that Contract No. 34EV between the County of Erie and Sicar, Inc., 1128 Jamison Road, Elma, New York 14059 is accepted in the amount of \$405,360.44, which includes Change Order No. 2(final), an increase of \$6,989.35, and release of retention is approved; and be it further

RESOLVED, that the Erie County Comptroller is hereby authorized and directed to finalize Contract No.34EV between the County of Erie and Sicar, Inc. in the amount of \$405,360.44 and the release of retention; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send one certified copy of this Resolution to County Executive Joel Giambra, one certified copy to John S. Rizzo, Deputy Comptroller, Erie County Comptroller Office, one certified copy to Gregory Dudek, Assistant County Attorney and two (2) certified copies to Charles J. Alessi, P.E., Department of Environment and Planning.

(4-0) Legislator Ranzenhofer absent.

8. Item Page -2004 (Comm. 15E-25)
COUNTY EXECUTIVE

WHEREAS, the Village of Blasdell has become part of Erie County Sewer District No. 3 (ECSD No. 3); and

WHEREAS, ECSD No. 3 is desirous of having a joint construction project with the Village of Blasdell to rebuild the Pearl and Orchard Avenue sanitary sewers when the Village reconstructs the roads in 2004 and 2005; and

WHEREAS, this Honorable Body approved a resolution on November 13, 2003 approving an agreement between the County of Erie on behalf of Erie County Sewer District No. 3 and the Village of Blasdell in the amount of \$100,000 for the joint sanitary sewer, water and road reconstruction of Pearl and Orchard Avenues; and

WHEREAS, revised cost estimates show that the estimated cost to Erie County Sewer District No. 3 is now \$160,000.

NOW, THEREFORE, BE IT

RESOLVED, that an intermunicipal agreement between the County, on behalf of Erie County Sewer District No. 3, and the Village of Blasdell for the rebuilding of the Pearl, Commercial and Orchard Avenue sanitary sewers together with the Village's reconstruction of the roads and water lines is hereby approved; and be it further

RESOLVED, that the County Executive be, and hereby is, authorized to execute said agreement subject to approval as to form by the County Attorney and as to content by the Commissioner of the Department of Environment and Planning; and be it further

RESOLVED, that the Comptroller be authorized and directed to reimburse the Village of Blasdell an amount not to exceed \$160,000.00. \$100,000.00 shall come from ECSD No. 3 Capital Account C.00014 (430-446) and \$60,000.00 from ECSD No. 3, Capital Account C.00039 for the replacement of the Pearl, Commercial and Orchard Avenue sanitary sewers, subject to the approval and verification of the cost by the County's Division of Sewerage Management; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send one certified copy of this resolution to Joel A. Giambra, County Executive; Nancy Naples, Erie County Comptroller; Gregory Dudek, Assistant County Attorney; Joseph Passafiume, Director of Budget, Management and Finance; and two (2) certified copies of this resolution to Charles J. Alessi, P.E., Deputy Commissioner of the Department of Environment and Planning.
 (4-0) Legislator Ranzenhofer absent.

9. Item Page -2004 (Comm. 15E-32)
COUNTY EXECUTIVE

WHEREAS, the Erie County Department of Environment and Planning (DEP) provides support to solid waste management planning units to assist them in meeting their solid waste management objectives; and

WHEREAS, the DEP provides technical assistance to municipalities and businesses to help address their waste management needs; and

WHEREAS, the State of New York provides financial aid for municipal waste reduction and municipal recycling projects; and

WHEREAS, Erie County, herein called the Municipality, has examined and duly considered the applicable laws of the State of New York and the Municipality deems it to be in the public interest and benefit to file an application under these laws; and

WHEREAS, it is necessary that a Contract by and between the people of the State of New York, herein called the State, and the Municipality be executed for such State aid.

NOW, THEREFORE BE IT

RESOLVED, that the filing of an application in the form required by the State of New York in conformity with the applicable laws of the State of New York including all understanding and assurances contained in said application is hereby authorized; and be it further

RESOLVED, that the County Executive or his representative is directed and authorized as the official representative of the Municipality to act in connection with the application and to provide such additional information as may be required and to sign the resulting contract if said application is approved by the State; and be it further

RESOLVED, that the Municipality agrees that it will fund its portion of the cost of said Municipal Waste Reduction and/or Recycling Project; and be it further

RESOLVED, that certified copies of this resolution be sent to the County Executive, the Director of Budget, Management and Finance; Laurence K. Rubin, Commissioner of Environment and Planning; Maria Lehman, Commissioner of the Department of Public Works; Patrick Gallivan, Erie County Sheriff; Michael Raab, Deputy Commissioner of Environment and Planning; the County Comptroller; and the County Attorney.

(4-0) Legislator Ranzenhofer absent.

10. Item Page -2004 (Comm. 15E-45)

COUNTY EXECUTIVE

WHEREAS, the Erie County Department of Environment and Planning (DEP) provides support to solid waste management planning units to assist them in meeting their solid waste management objectives; and

WHEREAS, the DEP provides technical assistance to municipalities and businesses to help address their waste management needs; and

WHEREAS, the State of New York provides financial aid for municipal waste reduction and municipal recycling projects; and

WHEREAS, Erie County, herein called the Municipality, has examined and duly considered the applicable laws of the State of New York and the Municipality deems it to be in the public interest and benefit to file an application under these laws; and

WHEREAS, it is necessary that a Contract by and between the people of the State of New York, herein called the State, and the Municipality be executed for such State aid.

NOW, THEREFORE BE IT

RESOLVED, that the filing of an application in the form required by the State of New York in conformity with the applicable laws of the State of New York including all understanding and assurances contained in said application is hereby authorized; and be it further

RESOLVED, that the County Executive or his representative is directed and authorized as the official representative of the Municipality to act in connection with the application and to provide such additional information as may be required and to sign the resulting contract if said application is approved by the State; and be it further

RESOLVED, that the Municipality agrees that it will fund its portion of the cost of said Municipal Waste Reduction and/or Recycling Project; and be it further

RESOLVED, that certified copies of this resolution be sent to the County Executive, the Director of Budget, Management and Finance; Laurence K. Rubin, Commissioner of Environment and Planning; Maria Lehman, Commissioner of the Department of Public Works; Patrick Gallivan, Erie County Sheriff; Michael Raab, Deputy Commissioner of Environment and Planning; the County Comptroller; and the County Attorney.

(4-0) Legislator Ranzenhofer absent.

11. Item Page -2004 (Intro. 15-1)

McCARVILLE, MINORITY CAUCUS

WHEREAS, the Erie County Legislature supports the agricultural industry, the protection of farmland, intelligent development of rural communities, the Right To Farm Act and better ways to coordinate between various levels of government on development and agricultural issues, and

WHEREAS, it was stated publicly at a June 16, 2004 meeting of Erie County Legislators and town supervisors and representatives that the Erie County Legislature is committed to working with local towns and villages to secure more state and federal funding to protect farmland and help the agricultural industry in Erie County, and

WHEREAS, one solution to providing needed funds is found in legislation before the New York State Assembly and Senate (S.6949/A.10053), which if approved would create a fund for the implementation of plans for preservation of community character, including the protection of farmland, and

WHEREAS, if approved this fund would allow towns to acquire interests or rights in real property for the preservation of community character, to establish a bank pursuant to a transfer of development rights program and to provide management and stewardship for such interests and rights, and

WHEREAS, if a fund was made available for the purchase of development rights at the town level, the Erie County Legislature would be committed to working with towns to promote a regional approach to the protection of farmland and the preservation of community character,

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature is committed to helping the agricultural industry, the protection of farmland, intelligent development of rural communities, the Right To Farm Act and better ways to coordinate between various levels of government, and be it further

RESOLVED, that this Honorable Body seeks to continue to work with local towns and villages to ensure the protection of farmland and the preservation of community character, and be it further

RESOLVED, that this Honorable Body asks the Governor and the New York State Legislature to consider passing (S. 6949/A.10053), which would create a community preservation fund, and be it further

RESOLVED, that certified copies of this resolution be forwarded to Governor George Pataki, the Western New York Delegation to the New York State Legislature, the Supervisors of Amherst, Alden, Aurora, Boston, Brant, Cheektowaga, Clarence, Colden, Collins, Concord, Eden, Elma, Evans, Hamburg, Holland, Lancaster, Marilla, Newstead, North Collins, Orchard Park, Sardinia and Wales, the Erie County Commissioner of Environment and Planning, the New York State Department of Environmental Conservation and the President of the Erie County Farm Bureau.

Fiscal Impact: To Be Determined
(4-0) Legislator Ranzenhofer absent.

RAYMOND K. DUSZA
CHAIRMAN